

1 JASON R. MAIER, ESQ.
Nevada Bar No. 8557
2 STEPHEN G. CLOUGH, ESQ.
Nevada Bar No. 10549
3 **MAIER GUTIERREZ & ASSOCIATES**
8816 Spanish Ridge Avenue
4 Las Vegas, Nevada 89148
Telephone: 702.629.7900
5 Facsimile: 702.629.7925
E-mail: jrm@mgalaw.com
6 sgc@mgalaw.com

7 *Attorneys for Plaintiff Donna M. Smith*

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 DONNA M. SMITH, an individual,
12
Plaintiff,

13 vs.

14 SAM'S WEST, INC., a foreign corporation;
15 DOES I through X; and ROE CORPORATIONS
16 I through X, inclusive,
17 Defendants.

Case No.: 2:18-cv-00957-JCM-PAL

THIRD JOINT STATUS REPORT

SUBMITTED PURSUANT TO ECF NO. 30

18 Pursuant to the Second Joint Status Report filed on December 21, 2018 [ECF No. 30], plaintiff
19 Donna M. Smith ("Plaintiff"), by and through her attorneys of record, the law firm MAIER GUTIERREZ
20 & ASSOCIATES, and defendant Sam's West, Inc. ("Defendant"), by and through its attorneys of record,
21 the law firm of PHILLIPS, SPALLAS & ANGSTADT, LLC, hereby submit this joint status report regarding
22 the removed action.

23 **1. Status of the Action:**

24 The parties incorporate by reference the prior joint status reports and will only provide the
25 Court with new information regarding the status of the action in this third joint status report.

26 **2. Depositions Completed:**

27 Since the second joint status report, the following depositions have been noticed and/or taken:

- 28 a) The deposition of Wendy Eteuini, employee of Sam's West, Inc., was taken on

January 16, 2019.

b) The deposition of Sherry Hanley, employee of Sam's West, Inc., was taken on January 16, 2019.

c) The deposition of Kevin Syprus, employee of Sam's West, Inc., was taken on January 16, 2019.

d) The deposition of Jimmie Beaty, employee of Sam's West, Inc., was taken on January 16, 2019.

e) The deposition of Emmanuel Pinto, employee of Sam's West, Inc., was taken on January 16, 2019.

f) The deposition of Candice Sandoval, former employee of Sam's West, Inc., was noticed for January 18, 2019. Ms. Sandoval was served with a subpoena for the deposition, but she did not appear. At the time of the deposition, the parties stipulated on the record to withdraw Ms. Sandoval as a disclosed witness in this case, thereby precluding her from testifying at trial and eliminating the need for any further attempts to depose Ms. Sandoval.

g) The deposition of Kenyon Davis, former employee of Sam's West, Inc., was noticed for January 18, 2019. Plaintiff's counsel hired a private investigator to locate Mr. Davis, which resulted in erroneous addresses in both Nevada and Louisiana. The private investigator was unable to obtain an accurate address for Mr. Davis, as it appears he recently moved. Nevertheless, the parties have now agreed to withdraw Mr. Davis as a witness in this case, thereby precluding him from testifying at trial and eliminating the need for any further attempts to depose Mr. Davis.

h) The deposition of Greg Hawley, former employee of Sam's West, Inc., was taken on January 28, 2019.

3. Depositions Remaining:

a) Katherine Parise, claims adjuster at Sedgwick. At the hearing on January 7, 2019, the Court permitted plaintiff to take this deposition after the Sedgwick

document production has been completed, which is discussed in further detail below.

b) FRCP 30(b)(6) of Sam's West, Inc. The parties agreed to take this deposition after all of the current and former employee depositions discussed above, as well as after the Sedgwick document production has been completed and the deposition of Ms. Parise has been taken. The parties agreed to take this deposition last so as to avoid having to take the deposition again.

c) Helen Lamermer, plaintiff's mother. This deposition was previously postponed due to Ms. Lamermer previously being admitted to the hospital. Ms. Lamermer has since been released home.

4. Sedgwick Document Production:

Following the hearing on January 7, 2019, Sedgwick made two documents productions, the first on January 18, 2019, and the second on January 22, 2019. After reviewing the documents produced by Sedgwick, plaintiff's counsel sent Sedgwick's counsel a four-page letter on January 30, 2019, regarding what appeared to be deficiencies with Sedgwick's document production. Plaintiff's counsel would like to take the deposition of Ms. Parise (or alternatively a Rule 30(b)(6) designee) after the issues with Sedgwick's document production have been resolved.

5. Mediation:

Mediation has been scheduled and confirmed for February 26, 2019, with Paul Haire, Esq., of Advanced Resolution Management. In order to give the parties the best possible chance of resolving this case at the mediation on February 26, 2019, plaintiff has agreed to provide defendant with a revised demand and opening mediation settlement offer by February 12, 2019, two weeks prior to the mediation. The parties are optimistic that this matter can be resolved at the mediation on February 26, 2019. Accordingly, the parties request that the Court allow the three remaining depositions to be taken after the Sedgwick document production issues have been resolved and after the mediation scheduled for February 26, 2019.

6. Action Requested by Court:

The parties request that the scheduling order be modified as follows:

- The parties shall file with the Court a status report on February 27, 2019, stating whether this case resolved at mediation on February 26, 2019.
- In the event this case does not resolve at mediation on February 26, 2019, the parties shall complete the three remaining depositions not later than March 20, 2019.
- The parties shall file dispositive motions, if any, not later than April 19, 2019.
- The parties shall file the joint pretrial order not later than May 17, 2019. In the event that dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days after the decision on the dispositive motions or until further order of the Court.

DATED this 1st day of February, 2019.

DATED this 1st day of February, 2019.

MAIER GUTIERREZ & ASSOCIATES

PHILLIPS, SPALLAS & ANGSTADT LLC

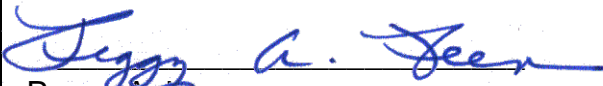
/s/ Jason R. Maier

/s/ Timothy D. Kuhls

JASON R. MAIER, ESQ.
Nevada Bar No. 8557
STEPHEN G. CLOUGH, ESQ.
Nevada Bar No. 10549
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiff Donna M. Smith

ROBERT K. PHILLIPS, ESQ.
Nevada Bar No. 11441
TIMOTHY D. KUHL, ESQ.
Nevada Bar No. 13362
504 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Defendant Sam's West, Inc.

IT IS SO ORDERED this 5th day of
February, 2019.


Peggy A. Leen
United States Magistrate Judge